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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/672,204

09/28/2000

Ted Chongpi Lee

8791

46363 7590 04/23/2007
PATTERSON & SHERIDAN, LLP/
LUCENT TECHNOLOGIES, INC
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

EXAMINER

OSMAN, RAMY M

ART UNIT

PAPER NUMBER

2157

MAIL DATE

DELIVERY MODE

04/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.



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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

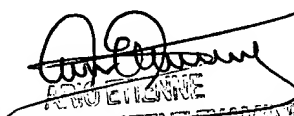
Commissioner for Patents

This communication is in response to mail returned to USPTO on October 30, 2006 as undelivered:

The reply brief filed on July 27, 2006 has been considered and placed in the file. Applicant's argument is deemed to be not persuasive. Applicant argues that Morley is silent on any capacity/threshold for each fiber/facility.

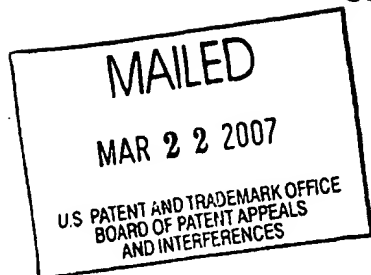
In reply, the fibers of Morley inherently have the same capacity/threshold as the span/link. Applicant's claim language is broad and therefore Morley reads on the claims.

No further action by the Examiner is necessary, and the case has been forwarded to the Board of Appeals and Interferences.


RAMY M. OSMAN
UNITED STATES PATENT EXAMINER
ALEXANDRIA, VIRGINIA 22313-1450

Ramy M Osman

UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte TED CHONGPI LEE and CHAIN N. YUNG

Application No. 09/672,204

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on December 1, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

The Examiner's Answer mailed on June 5, 2006, stated under the Evidence Relied Upon section, page 2 that "No evidence is relied upon by the examiner in the rejection of the claims under appeal." A review of the file reveals that prior art was applied to the

Application No. 09/672,204

Rejections on appeal. See the Grounds of Rejection on page 3 of the Examiner's Answer. The Manual of Patent Examining Procedure, (MPEP), in §1207.02 states:

(8) *Evidence Relied Upon*. A listing of the evidence relied on (e.g., patents, publications, admitted prior art), and, in the case of nonpatent references, the relevant page or pages.


Before further review, the examiner must submit a corrected examiner's answer that will include the reference(s) under the "Evidence Relied Upon" heading.

Also, on August 19, 2004, appellants filed a Notice of Appeal. Although, the Notice of Appeal authorized payment of any fees which may be required to Deposit Account 20-0782, the Notice of Appeal fee has not been charged.

Further, on October 19, 2006, a paper was mailed to the appellants. However, on October 30, 2006, the mail was returned to the USPTO as undelivered.

Accordingly it is

ORDERED that the application is electronically returned to the Examiner to:

- 1) vacate the Examiner's Answer and issue a revised Examiner's Answer having the missing reference(s) listed under "Evidence Relied Upon" section; 
- 2) for charging the Notice of Appeal fee to Deposit Account 20-0782;

7.

Application No. 09/672,204

3) for proper delivery of the paper mailed on October 19, 2006; and *OK*

4) and for such further action as may be appropriate. *Resend?*

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: *Pat J. Nolan*
PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

PJN/gjh

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